

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

NOVEMBER 14, 2005

The Marlboro Township Council held a special meeting on November 14, 2005 at 8:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Pernice opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of this special meeting of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on November 4, 2005; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building and filed in the office of the Municipal Clerk.

The Clerk called the Roll.

PRESENT: Councilman Cantor, Councilman Denkensohn, Councilman Mione, Council Vice President Morelli and Council President Pernice. Councilman-elect Rosenthal and Councilwoman-elect Tragni were also present.

Also present were: Mayor Robert Kleinberg, Andy Bayer, Esq., Business Administrator Judith Tiernan, Township Planner Jennifer Beahm and Municipal Clerk Alida DeGaeta.

The following Resolution #2005-464 (Chapter 159 - Click It or Ticket) was introduced by reference, offered by Councilman Cantor, seconded by Councilman Mione, and was passed on a roll call vote of 5- 0 in favor.

RESOLUTION # 2005-464

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE  
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

#### **Section 1**

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2005 in the sum of \$4,000.00, which item is now available as a revenue from the 2005 Click It or Ticket Grant, and

#### **Section 2**

BE IT FURTHER RESOLVED that the sum of \$4,000.00 is hereby appropriated under the caption "Click It or Ticket Grant".

The following Resolution #2005-465 (Chapter 159 - Drunk Driving Grant) was introduced by reference, offered by Councilman Cantor, seconded by Councilman Mione, and was passed on a roll call vote of 5- 0 in favor.

#### **RESOLUTION # 2005-465**

#### **RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE AND APPROPRIATION (N.J.S.A. 40A:4-87)**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

#### **Section 1**

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2005 in the sum of \$8,309.55, which item is now available as a revenue from the 2005 Drunk Driving Enforcement Grant, and

#### **Section 2**

BE IT FURTHER RESOLVED that the sum of \$8,309.55 is hereby appropriated under the caption "Drunk Driving Enforcement Grant".

The following Resolution #2005-466 (Chapter 159 - Enhanced 911 Grant) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Cantor, and was passed on a roll call vote of 5- 0 in favor.

RESOLUTION # 2005-466

RESOLUTION REQUESTING APPROVAL OF ITEMS OF REVENUE  
AND APPROPRIATION (N.J.S.A. 40A:4-87)

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

**Section 1**

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Marlboro, in the County of Monmouth, New Jersey, hereby requests the Director of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2005 in the sum of \$36,584.00, which item is now available as a revenue from the 2005 Enhanced 911 Grant, and

**Section 2**

BE IT FURTHER RESOLVED that the sum of \$36,584.00 is hereby appropriated under the caption "Enhanced 911 Grant".

The following Resolution #2005-467 (Budget Transfers) was introduced by reference, offered by Council Vice President Morelli, seconded by Council President Pernice, and was passed on a roll call vote of 5- 0 in favor.

RESOLUTION # 2005-467

RESOLUTION AUTHORIZING BUDGET TRANSFERS  
DURING LAST TWO MONTHS  
OF THE FISCAL YEAR

WHEREAS, N.J.S.A. 40A: 4-58 provides for appropriation transfers during the last two (2) months of the fiscal year, when it has been determined that it is necessary to expend for any of the purposes specified in the budget an amount in excess of the sum

appropriated therefore and where it has been further determined that there is an excess in any appropriation over the above amount deemed to be necessary to fulfill the purpose of such appropriation,

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of Marlboro does hereby authorize the transfers among the Calendar Year 2005 Municipal Budget as follow:

From:

Mayor S&W	6,500.00
Administration S&W	10,000.00
Finance S&W	3,500.00
Engineering S&W	35,000.00
Planning S&W	32,500.00
Zoning S&W	12,000.00
Fire Prevention S&W	3,500.00
Road Maintenance S&W	31,350.00
Grounds Maintenance S&W	15,000.00
Recreation S&W	25,000.00
Teen Programs S&W	5,000.00
Affordable Housing S&W	7,500.00
911 Expenses S&W	7,500.00
Salary Adjustment	50,000.00

To:

Municipal Clerk S&W	3,000.00
Computer S&W	1,250.00
Tax Assessor S&W	16,000.00
Public Information S&W	1,100.00
Police S&W	89,500.00
Park & Rec Functions S&W	30,000.00
Public Works S&W	10,000.00
Municipal Court S&W	14,000.00
Gasoline	40,500.00
Telephone	15,000.00
Liability Insurance	3,500.00
Environmental Comm OE	500.00
Legal OE	20,000.00

Totals	244,350.00	244,350.00
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The following Resolution #2005-446 (Tabled 11/3 - Bond Release Famous Pino's Restaurant) was introduced by reference, offered by

Council President Pernice and seconded by Councilman Denkensohn. Council Vice President Morelli recused herself and was not present for the discussion or vote. Discussion followed during which Council President Pernice stated that Mr. Caruso has agreed to install light shields, as per the recommendation of the Township Engineer. After discussion, Councilman Cantor moved that the resolution be amended to add such language, which was seconded by Council President Pernice, and the resolution as amended was passed on a roll call vote of 4 - 0 in favor (Absent: Morelli)

RESOLUTION #2005-446 (As Amended)

A RESOLUTION AUTHORIZING THE RELEASE OF THE PERFORMANCE BOND, CASH BOND AND LETTER OF CREDIT FOR THE FAMOUS PINO'S RESTAURANT PROJECT

WHEREAS, in accordance with N.J.S.A. 40:55D-53, the Township of Marlboro received a request by Giovanni Caruso for the release of the Performance Bond, Cash Bond and Letter of Credit being held by the Township for the Famous Pino's Restaurant Project; and

WHEREAS, the Mayor and Township Council of the Township of Marlboro have received and reviewed a report from the Township Engineer dated September 28, 2005 (the "Engineer's Report"), a copy of which is attached hereto and made a part hereof; and

WHEREAS, the Engineer's Report recommends the release of the Performance Bond, Cash Bond and Letter of Credit being held by the Township conditioned upon (1) the payment of all fees required by the Developer's Agreement and (2) the posting of a Maintenance Bond in the amount of \$30,000.00; and

WHEREAS, the Township Council now desires to take the following action regarding the aforesaid Performance Bond, Cash Bond and Letter of Credit.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that the Performance Bond, Cash Bond and Letter of Credit posted for the Famous Pino's Restaurant Project shall each be released in their entirety; and

BE IT FURTHER RESOLVED, that the release of the aforesaid Performance Bond, Cash Bond and Letter of Credit shall be conditioned upon (1) the payment of all fees required by the Developer's Agreement; (2) the posting of a Maintenance Bond in the amount of \$30,000.00; and (3) placement of light shields around parking lot lights in conformance with requirements of Township Engineer.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Giovanni Caruso
- b. Sun National Bank
- c. Township Engineer
- d. Chief Financial Officer
- e. GluckWalrath LLP

The following Resolution #2005-468 (Refunds for Overpayments 2005 Taxes) was introduced by reference, offered by Council Vice President Morelli, seconded by Councilman Denkensohn, and was passed on a roll call vote of 5- 0 in favor.

RESOLUTION # 2005-468

WHEREAS, the attached list, known as Schedule "A", is comprised of properties that were overbilled for 2005, and,

WHEREAS, the 2005 taxes were paid in full based on the overbilled amounts,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to refund amounts totaling \$12,525.47 to the respective taxpayers.

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>AMOUNT</u>
269	13.01 C0001	190 Route 9 North, LLC	\$5,299.88
190 Route 9 North		P.O. Box 6333	
		Freehold, NJ 07728	
269	13.02 C0002	Ebaz Investments, LLC	7,225.59
190 Route 9 North		522 Route 9 North #297	
		Manalapan, NJ 07726	
TOTAL:			\$12,525.47

At 8:45PM, Councilman Cantor moved that the meeting go into executive session for reason of discussing personnel and litigation. This was seconded by Councilman Denkensohn, and passed on a roll call vote of 5 - 0 in favor. Recess was called and the closed session started 8:50PM.

RESOLUTION # 2005-469

WHEREAS, it is determined by the governing body of the Township of Marlboro that it is necessary on the 14<sup>th</sup> day of November,

2005 to go into executive session for the purpose of discussing those items that are particularly exempted from the Open Public Meetings Act, namely personnel and litigation.

BE IT FURTHER RESOLVED that the governing body shall adjourn to executive session for the purpose of discussing said aforementioned item and that such executive session should take approximately 90 minutes. Those items discussed in executive session shall remain confidential until such time as confidentiality is no longer required. Action may be taken following the executive session.

At 10:10PM, Council President Pernice moved that the meeting be opened. This was seconded by Councilman Denkensohn, and as there was no objection, the Clerk was asked to cast one ballot.

At 10:11PM, Council President Pernice moved that the meeting be adjourned. This was seconded by Councilman Cantor, and as there was no objection, the Clerk was asked to cast one ballot.

MINUTES APPROVED: December 15, 2005

OFFERED BY: Morelli AYES: 5

SECONDED BY: Denkensohn NAYS: 0

ABSENT:

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ALIDA DE GAETA  
MUNICIPAL CLERK

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JOSEPH PERNICE  
COUNCIL PRESIDENT